

directly or through insurance,
reimbursement, or
otherwise or

"(II) \$500,000.

For purposes of the preceding sentence,
all plans of
which the same trust forms a part shall
be treated
as one plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO
PAY TAX.—If an employer is assessed a tax imposed
by subsection (a) by reason of a failure with respect
to a specified multiple employer health plan, the limit
shall be determined under subparagraph (A) (and not
under this subparagraph) and as if such plan were
not a specified multiple employer health plan.

"(4) WAIVER BY SECRETARY.—In the case of a failure which
is due to reasonable cause and not to willful neglect, the Sec-
retary may waive part or all of the tax imposed by subsection
(a) to the extent that the payment of such tax would be exces-
sive relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN INSURED SMALL
EMPLOYER
PLANS.—

"(1) IN GENERAL.—In the case of a group
health plan of
a small employer which provides health
insurance coverage
solely through a contract with a health
insurance issuer, no
tax shall be imposed by this section on the
employer on any
failure which is solely because of the health
insurance coverage
offered by such issuer.

"(2) SMALL EMPLOYER.—

"(A) IN GENERAL.—For purposes of paragraph
(1),

the term "small employer" means, with respect to
a calendar
year and a plan year, an employer who
employed an average
of at least 2 but not more than 50
employees on
business days during the preceding calendar
year and who
employs at least 2 employees on the first day
of the plan
year. For purposes of the preceding sentence,
all persons
treated as a single employer under subsection
(b), (c), (m),
or (o) of section 414 shall be treated as one
employer.

"(B) EMPLOYERS NOT IN EXISTENCE IN
PRECEDING

YEAR.—In the case of an employer which was
not in exist-
ence throughout the preceding calendar year,
the deter-
mination of whether such employer is a small
employer
shall be based on the average number of
employees that
it is reasonably expected such employer will
employ on
business days in the current calendar year.

"(C) PREDECESSORS.—Any reference in this

paragraph

to an employer shall include a reference to
any predecessor
of such employer.

"(3) HEALTH INSURANCE COVERAGE; HEALTH
INSURANCE

ISSUER.—For purposes of paragraph (1), the terms
health insurance coverage and health insurance issuer have
the respective
meanings given such terms by section 9805.

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"(e) LIABILITY FOR TAX.—The following shall be
liable for the
tax imposed by subsection (a) on a failure:

"(1) Except as otherwise provided in this
subsection, the
employer.

"(2) In the case of a multiemployer plan, the
plan.